



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

August 27, 1991
AO-91-19

Thomas P. Hall
Town Clerk
Town Hall
7 East Street
Hingham, MA 02043

Re: Political Solicitation in Public Buildings

Dear Mr. Hall:

This letter is in response to your May 31, 1991, letter requesting an advisory opinion.

In your letter and in conversations with the Office's General Counsel, you have stated that certain people have considered soliciting political contributions either inside or just outside the chain link fence surrounding the Hingham Landfill ("Landfill"). Attached to your letter and included as part of this opinion as Attachment A is a sketch (not intended to be to scale) of the Landfill. The sketch includes a demarcation of a security shack, recycling areas and access roads to the Landfill. You have asked if the solicitation of political contributions may occur inside and/or immediately outside the fence at the Landfill and, more generally, whether the prohibition against political solicitation extends to public sidewalks, streets, the Federal Post Office and the like.

M.G.L. c.55, s.14 provides, in relevant part, that

No person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen.¹

1. The purposes set forth in section 13 are "for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever . . . "

For the reasons set forth below, it is the opinion of this Office that section 14 applies to actual buildings and any part of such buildings occupied for state, county or municipal purposes (whether inside or outside of the building) which is integral to the building or the work of the building.

Relevant rules of statutory construction require that the language of a statute with plain words should be interpreted by ascribing common and usual meaning to those words. In addition, the legislature is assumed to have acted in accordance with common sense which, therefore, must be considered when interpreting such a statute. Finally, since s.14 is a statute which imposes serious criminal penalties upon those who violate its requirements, it must be interpreted narrowly.

The focus and concern of section 14's language is clear. It concerns any "building" or "part thereof" which is "occupied for state, county or municipal purposes" (hereinafter "public purposes"). Considering this language in the context of the referenced rules of statutory construction leads to the conclusion that section 14 applies to government buildings such as the State House or Town Hall, to individual rooms or any part of a building "occupied" for public purposes such as office space leased by a state agency in an otherwise privately owned building, and to other space which is an integral part of a state, county or municipal building such as the enclosed portions of the Landfill.²

The above analysis is buttressed by the law's statutory history as well as the policy considerations that the Office believes underlie section 14. The prohibition against solicitation in buildings occupied for public purposes was first adopted by the legislature in 1884. See St. 1884, c.320, s.7.³ Entitled "An Act To Improve The Civil Service Of The Commonwealth And The Cities Thereof", Chapter 320 also

2. The purpose for which a building or part thereof is occupied is a critical determination. See AO-88-11 (Section 14 prohibition not applicable to federal post office located in the state house since that portion of the building is occupied for "federal" and not "state" purposes) and AO-89-07 (Section 14 prohibition not applicable to Massachusetts Convention Center Authority facilities). See also AO-88-10 (Section 14 prohibition applicable to immediate surroundings of a state building).

3. This law has been amended on a number of occasions. Its purpose, however, has been consistent. The relevant language originally referred to "rooms or buildings occupied for the discharge of official duties." The relevant portion of the statute's present language was adopted in 1918. See St. 1918, c.146, ss.2-4.

adopted the prohibitions and protections now set forth in M.G.L. c.55, ss.13, 15, 16 and 17. As the Act's title and other provisions indicate, the purpose of these laws was and is to prohibit public employees from certain political activities and to protect them (and others) from certain political pressures. In particular, section 14 protects all persons who are working in buildings or parts thereof occupied for public purposes as well as anyone who may visit such buildings or parts thereof from being subjected to the pressures of political solicitation.

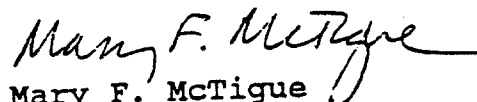
In conclusion, the prohibition set forth in section 14 is applicable to buildings or parts of buildings occupied for state, county or municipal purposes whether a humble shack and its immediate facilities situated at the local landfill, a county office situated on part of the third floor of a privately owned building or the State House. On the other hand, section 14 does not apply to public property or lands such as public sidewalks, streets and plazas which are not an immediate and intrinsic part of a public building.

The Landfill contains a public building (the security shack) and parts thereof (compacting and recycling areas and immediate access roads) occupied for municipal purposes. Therefore, it is the opinion of this Office that the prohibitions against political solicitation set forth in M.G.L. c.55, s.14 are applicable to the enclosed portions of the Landfill mentioned above and described in Attachment A.

This opinion has been rendered solely on the basis of the representations set forth in your letter and conversations with the Office's General Counsel and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this Office if you have additional questions.

Very truly yours,


Mary F. McTigue
Director

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AREA

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EXIT

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